

BANTLE & LEVY LLP
ATTORNEYS AT LAW
817 BROADWAY, 6TH FLOOR
NEW YORK, NEW YORK 10003

ROBERT L. LEVY
LEE F. BANTLE
SHERIE N. BUELL

TEL 212.228.9666
FAX 212.228.7654

February 14, 2018

Via ECF and Fax

Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Stolarik v. The New York Times Company, et.al.*
Civil Case No. 17 Civ. 5083 (PGG)

Dear Judge Gardephe:

This firm represents Plaintiff Robert Stolarik in the above-referenced case. We write with the consent of counsel for Defendants The New York Times Company and Michele McNally ("the Times Defendants") to request an extension of deadlines set forth in the Case Management Plan and Scheduling Order (the "Order").¹ This is the first request for an extension. A proposed Joint Stipulation extending the deadlines is being filed along with this letter.

There are two reasons that an extension of deadlines is needed. The first, and most important, is that Mr. Stolarik was in a serious biking accident on January 27, 2018, causing multiple fractures. He went through a period of diagnostic testing and then had surgery on Feb 13, 2018. It is expected that he will be in rehabilitation for several months; however, it is anticipated that he will be able to resume participating in the prosecution of his claims within a week or so. The second reason for the request is that there is a substantial amount of ESI which must be reviewed and produced in this case which is expected to delay the start of depositions beyond what was initially intended.

¹ Discovery has been stayed as to Defendants the Newspaper Guild of New York New York Times Pension Plan (the "Pension Plan"), the Guild-Times Adjustable Pension Plan (the "APP"), the Trustees of the Pension Plan, and the Trustees of the APP (collectively, "the Pension Plans and their Trustees.")

BANTLE & LEVY LLP

Counsel for Plaintiff and the Times Defendants have been working cooperatively. Interrogatories and Document Requests have been submitted and responded to by both sides. Depositions have been noticed, but not yet conducted.

At present, the Order states that the case is not to be tried to a jury. In addition to the foregoing request for an extension, Plaintiff would like to request that the Civil Case Management Plan and Scheduling Order indicate that certain claims in this case are to be tried to a jury. The Times Defendants do not consent to the trial by jury of any issue not required by law to be tried to a jury, including, but not limited to, any determination of equitable remedies (see Dkt. 23-1, Attachment to Civil Case Management Plan and Scheduling Order). Moreover, Defendants the Plans and their Trustees do not consent to a trial by jury of Plaintiff's claim for benefits under ERISA § 502(a)(1)(B), 29 U.S.C. § 1132(a)(1)(B) (Count XI).

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Lee F. Bantle", written in a cursive style.

Lee F. Bantle

cc: Gregory Rasin, Esq.
Allan Bloom, Esq.
Michelle Annese, Esq.
Myron Rumeld, Esq.
Russell Hirschhorn, Esq.